

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**EQUAL EMPLOYMENT OPPORTUNITY §
COMMISSION and PAMELA §
CRAWFORD, §**

Plaintiff and Plaintiff-Intervenor, §

v. §

ACCOR NORTH AMERICA, INC., §

Defendant. §

CIVIL ACTION NO. 3-08CV1726-P

**DEFENDANT ACCOR NORTH AMERICA, INC.'S
OPPOSED MOTION FOR TRIAL CONTINUANCE**

COMES NOW, Defendant Accor North America, Inc. ("Defendant" or "Accor") and files this Opposed Motion for Continuance to extend the trial setting until the first trial docket of the Court's June 2010 trial docket calendar, and respectfully would show the Court as follows:

I. GROUNDS FOR TRIAL CONTINUANCE

1. Alan Rabinowitz, in his official executive capacity as Executive Vice President General Counsel & Secretary for Accor is required to attend a meeting in Paris, France, the headquarters of the Accor's French parent company, Accor S.A., which will take him out of the country from Tuesday April 6th through Friday April 9th.¹ Specifically, Mr. Rabinowitz will be in attendance with other Accor senior managers and executives from around the world, during the week of April 5, 2010, which is the first week of this Court's two-week trial docket on which this case is set.² The main purpose of this worldwide meeting is to address an upcoming de-

¹ See Exhibit A, Rabinowitz Declaration ¶ 2.

² See Ex. A ¶ 2.

merger of Accor S.A.'s two main businesses (Hotels and Services), as well as other matters of corporate significance that will impact Accor North America, Inc.³

2. The de-merger is a material and significant corporate event, and had not been approved by the board of directors of Accor SA at the time of the Court's entry of the Scheduling Order in this case or at the time the case was placed on the April 2010 trial docket.⁴

3. Mr. Rabinowitz's presence at this meeting is required by the Company and the duties he owes to the Company in his executive role.⁵ In addition to the intangible burden that would be placed on the Company as a result of Mr. Rabinowitz's absence from the meeting, Accor has also already purchased his non-refundable airfare for travel to Paris.⁶

4. Mr. Rabinowitz is anticipated to be a material fact witness at trial and is expected to be called to testify by both parties.⁷ He was the highest-ranking member of Accor's management in the legal department in which Plaintiff-Intervenor Crawford worked, and he was the decision-maker with respect to her termination of employment, the fundamental factual event expected to be at issue in the event of a trial.⁸

5. Mr. Rabinowitz is also the key decision-maker with respect to Accor's directions to its outside legal counsel with respect to trial strategy and settlement authority.⁹ Mr. Rabinowitz's duties with respect to his executive management obligations, with respect to his

³ See Ex. A ¶ 2.

⁴ See Ex. A ¶ 3.

⁵ See Ex. A ¶ 4.

⁶ See Ex. A ¶ 4.

⁷ See Ex. A ¶ 5.

⁸ See Ex. A ¶ 5.

⁹ See Ex. A ¶ 6.

role as a fact witness in this case, and as the decision-maker for Accor's trial team cannot be delegated to any other person, and the duties cannot all be performed simultaneously.¹⁰

6. In addition, one of Accor's other important fact witnesses, Dana Withers—one of Plaintiff Crawford's supervising attorneys—is presently on a Family & Medical Leave of absence following the birth of her child. Ms. Withers will not be returning to work before April 12, 2010.¹¹

7. Although Plaintiff-Intervenor has not agreed to join in this Motion, Defendant has been informed by EEOC counsel that Plaintiff-Intervenor's counsel is unable to attend trial during the week of April 12, 2010.

8. Furthermore, although Plaintiff EEOC has not agreed to join in this Motion, the EEOC has informed Defendant that, because of at least one trial setting for the Plaintiff EEOC in May, it will not be able to be present at trial during for any May 2010 trial docket setting.

9. Accordingly, and in order to balance the needs of witnesses with the timing concerns of opposing counsel, Defendant respectfully seeks a continuance of the trial until the first two-week trial docket setting in June 2010.

10. Mr. Rabinowitz does not anticipate any conflicts with his availability to attend a trial during the first two weeks of June 2010.

11. This is the first trial setting in this case. This motion is not made for the purpose delay, but so that just may be done.

¹⁰ See Ex. A ¶ 6.

¹¹ See Ex. A ¶ 7.

WHEREFORE, for the foregoing reasons, Defendant requests that the Court to grant its Motion for Continuance, and to extend the trial setting in this matter until the first two-week trial docket setting in June 2010.

Respectfully submitted,

/s/ Ann Marie Painter

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**ATTORNEYS FOR DEFENDANT
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CERTIFICATE OF SERVICE

The undersigned attorney of record for Defendant certifies that she has conferred with the attorneys of record for Plaintiff EEOC and Plaintiff-Intervenor Pamela Crawford regarding the relief sought in this Motion. Plaintiff and Plaintiff-Intervenor oppose this Motion:

s/Ann Marie Painter
Ann Marie Painter

CERTIFICATE OF SERVICE

I do hereby certify that on March 15, 2010, I caused to be served via the Court's CM/ECF Filing System a true and correct copy of the above and foregoing document upon the following:

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